that the lessee shall have possession. *Coe* v. *Clay,* 5 Bing. 440; *King* v. *Reynolds,* 67 Ala. 229, 42 Am. Rep. 107; *Sloan* v. *Hart,* 150 N. C. 269, 63 S. E. 1037, 134 Am. St. Rep. 911, 21 L. R. A. (N. S.) 239; *Herpolsheimer* v. *Christopher,* 76 Neb. 352, 111 N. W. 359, 9 L. R. A. (N. S.) 1127, 14 Ann. Cas. 399; *Hertzberg* v. *Belsenbach,* 64 Tex. 262.

The "American Rule" holds that there is no duty upon the landlord to put the tenant in possession. The latter being clothed with the title by virtue of the lease, has his right to pursue such legal remedies as the law has provided for gaining possession. *Gardner* v. *Keteltas,* 3 Hill (N. Y.) 330, 38 Am. Dec. 637; *Cozens* v. *Stevenson* (Pa.), 5 Serg. & R. 421; *Sigmund* v. *Howard Bank,* 29 Md. 324; *Gazzolo* v. *Chambers,* 73 Ill. 79; *Playter* v. *Cunningham,* 21 Cal. 229; *Mirsky* v. *Horowitz,* 46 Misc. 257, 92 N. Y. Supp. 48. It would seem that it is the duty of the landlord to put the tenant in possession of the leased premises.

LIBEL AND SLANDER—REPORT OF JUDICIAL PROCEEDINGS—MAGISTRATE WITHOUT JURISDICTION.—Defendant published a report of an argument held in open court before a magistrate who had general jurisdiction of the matter under inquiry but not proper jurisdiction of the accused's person, and the latter sued for libel. Under a statute, reports of judicial proceedings were qualifiedly privileged. *Held,* a judicial proceeding within the libel statute. *Lee* v. *Brooklyn Union Pub. Co.* (N. Y.), 103 N. E. 155.

That reports of judicial proceedings are qualifiedly privileged is an established rule of the common law. *Hoare* v. *Silverlock,* 9 C. B. 20. But the early English cases and some of the early American ones, following the English decisions, held that reports of proceedings, *ex parte* or *inter partes,* before magistrates do not come within the rule. *Duncan* v. *Thwaites,* 3 B. & C. 556; *Stanley* v. *Webb,* 6 N. Y. Super. Ct. (4 Sandf.) 21, 2 Code Rep. 153; *Cincinnati Gazette Co.* v. *Timberlake,* 10 Ohio St. 548, 78 Am. Dec. 285.

When, however, statutes expressly made magistrates' courts open and public, which they had not been entirely in earlier years, the judges changed their views and for the public good recognized proceedings in such courts as judicial. *McBee* v. *Fulton,* 47 Md. 403, 28 Am. Rep. 465; *Bissell* v. *Press Pub. Co.,* 62 Hun. 551, 17 N. Y. Supp. 393; *Flues* v. *New Nonpareil Co.* (Iowa), 135 N. W. 1083.

The principal case appears to be one of novel impression in America, but there are several English cases that strongly support the decision. In the first of these it was held that a full and correct report of proceedings taking place before a magistrate on the preliminary investigation of a criminal charge terminating in the discharge of the accused, was privileged. *Lewis* v. *Levy,* El. Bl. & El. 537.

A second case, practically in point, decides that a report of an *ex parte* proceeding before a police magistrate, in a matter over which he has no jurisdiction and dismissed by him for that cause, is qualifiedly privileged. *Usill* v. *Hales,* L. R. 3 C. P. D. 319. A later case strongly upholds this decision. *Kimber* v. *Press Assn.,* L. R. [1893] 1 Q. B. 65.

The point is well taken in the principal case, that if the proceeding

was one which the public had a right to hear, then the defendant had the right in the public interest to report it, the burden not being upon him to determine doubtful questions of law as to the jurisdiction.

MASTER AND SERVANT—PROCUREMENT OF DISCHARGE WHERE CONTRACT IS TERMINABLE AT WILL.—The defendant maliciously procured the discharge of the plaintiff from her employment, which was for an indefinite time. *Held,* he is liable in damages, though the plaintiff had no right of action against her employer. *Warschauser* v. *Brooklyn Furniture Co.,* 144 N. Y. Supp. 257 (App. Div.).

In such cases the right of the employer to discharge the employee is generally held to be immaterial. *Chambers* v. *Probst,* 145 Ky. 381, 140 S. W. 572; *Moran* v. *Dunphy,* 177 Mass. 485, 59 N. E. 125, 83 Am. St. Rep. 289, 52 L. R. A. 115; *Perkins* v. *Pendleton,* 90 Me. 166, 38 Atl. 96, 60 Am. St. Rep. 252. *Contra, Holder* v. *Cannon Mfg. Co.,* 138 N. C. 308, 50 S. E. 681.

But if the discharge is procured by a threat to exercise a legal right, it is said to be *damnum absque injuria. Tennessee, etc., Co.* v. *Kelly,* 163 Ala. 348, 50 So. 1008; *Raycroft* v. *Tayntor,* 68 Vt. 219, 35 Atl. 53, 54 Am. St. Rep. 882, 33 L. R. A. 225; *O'Brien* v. *Telegraph Co.,* 62 Wash. 598, 114 Pac. 441. Hence there is no right of action against union laborers who procure the plaintiff's discharge by threatening to strike, if the threat is unaccompanied by illegal acts. *Wunch* v. *Shankland,* 59 App. Div. 482, 69 N. Y. Supp. 349; *Kemp* v. *Association,* 225 Ill. 213, 99 N. E. 389 (injunction proceedings). And see *Carter* v. *Oster,* 134 Mo. App. 146, 112 S. W. 995; *Lucke* v. *Cutters' Assembly,* 77 Md. 396, 26 Atl. 505.

But whether a threat to exercise a legal right becomes itself illegal if actuated by malevolent motives is not well settled. It was formerly held that bad motive of itself could not make a tort out of a legal act. COOLEY, TORTS, § 17; *Allen* v. *Flood,* [1898] A. C. 1, 92, 151; *Jenkins* v. *Fowler,* 24 Pa. St. 308. But in recent years the rule stated has been frequently disregarded. *Webb* v. *Drake,* 52 La. Ann. 290, 26 So. 790; *Plant* v. *Woods,* 176 Mass. 492, 57 N. E. 1011; *Delz* v. *Winfree,* 80 Tex. 400, 16 S. W. 111. See 18 HARV. LAW REV. 411; 28 AM. LAW REV. 47.

If the discharge is procured for a cause connected with the employment, the defendant's motives are immaterial. *Lancaster* v. *Hamburger,* 70 Ohio St. 156, 71 N. E. 289, 65 L. R. A. 856.

MUNICIPAL CORPORATIONS — ABUTTING PROPERTY OWNERS — VALIDITY OF MUNICIPAL ORDINANCE ESTABLISHING PUBLIC HACK STANDS.—Pursuant to a city ordinance, a public hack stand was established in front of an abutting hotel owner's premises, without the latter's consent. *Held,* the ordinance is a valid street ordinance. *Hotel Astor* v. *City of New York,* 144 N. Y. Supp. 494 (App. Div.).

An abutting owner has property in the street to the extent of an easement of light, air, and access. Of this he cannot be deprived without just compensation. This is true even when the municipality owns the title in fee to the street. *Adams* v. *Chicago, etc., Ry. Co.,* 39 Minn. 286, 39 N. W. 629, 12 Am. St. Rep. 644; *Abendroth* v. *Manhattan, etc., Ry.*